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RESOLUTION NO. 18-500

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

Resolution Denying an Appeal by Take Action El Paso County, LLC (APP-18-005) of the Application of the Use Provisions of the El Paso County Land Development Code by the Planning and Community Development Department Executive Director Regarding Classification of a Use by Mountain Springs Recovery, LLC/Sunshine Behavioral Health as a "Rehabilitation Facility."

WHEREAS, pursuant to §§ 30-11-101(1)(e) and 30-11-107(1)(e), C.R.S., the Board of County Commissioners of El Paso County, Colorado (hereinafter "Board) has the authority to exercise powers conferred upon it by law, to represent El Paso County, and to manage the concerns of the County when deemed by the Board to be in the best interests of the County and its inhabitants; and specifically, pursuant to § 29-20-104(1)(g) & (h), C.R.S., of the Local Government Land Use Control Enabling Act of 1974, the Board has the authority to plan for and regulate the use of land by regulating use on the basis of impacts on the community or surrounding areas and by planning for and regulating the use of land to provide for planned and orderly use; and

WHEREAS, pursuant to Board Resolution No. 18-389, the Board has the authority to hear and decide appeals of interpretations or applications of the use provisions of the El Paso County Land Development Code ("LDC") by the Executive Director of the Planning and Community Development Department; and

WHEREAS, Mountain Springs Recovery, LLC/Sunshine Behavioral Health ("Appellee") submitted a request for approval of a site development plan for property located at 1865 Woodmoor Drive, Monument, Colorado, Tax Parcel No. 71142-00-020, on July 18, 2018, to allow the existing hotel development to be converted to a Rehabilitation Facility, an allowed use in the C-2 (Commercial) zoning district; and

WHEREAS, after consultation with the County Attorney's Office, the Executive Director of the Planning and Community Development Department ("Executive Director"), on November 7, 2018, approved the site development plan with the following notation:

"Approval of the site development plan allows for the existing hotel to be converted to a Rehabilitation Facility as the use is defined in the El Paso County Land Development Code (2018). Based upon the application documents submitted, it is determined that the proposed use meets the definition of a Rehabilitation Facility;" and

WHEREAS, Sharon Schafer, Chairperson, on behalf of Take Action El Paso County ("Appellant") filed an appeal of the Executive Director's application of the LDC's use provisions on December 7, 2018; a hearing date was set for December 20, 2018, and notice of the hearing date was sent on December 10, 2018, pursuant to Resolution No. 18-389; and

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WHEREAS, the Board held a public hearing on Appellant's appeal on December 20, 2018, at which the County Attorney's Office presented review criteria and applicable law; Appellant, Appellant's representatives, and members of the public presented evidence and testimony in favor of the appeal; Appellee and Appellee's representatives presented evidence and testimony in opposition to the appeal; and representatives of the Planning and Community Development Department presented evidence and testimony; all of which were considered and weighed by the Board; and

WHEREAS, based on the evidence, testimony, exhibits, review criteria, and applicable law, consideration of applicable provisions of the LDC, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments from Appellant, Appellee, and all interested persons, including comments by the general public, and based on comments by the Board during the hearing, the Board finds as follows:

1. The appeal was timely submitted for consideration by the Board of County Commissioners.
2. Proper notice was provided pursuant to Resolution No. 18-389 for the appeal hearing before the Board of County Commissioners of El Paso County.
3. The appeal hearing before the Board of County Commissioners was extensive and complete; all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at the hearing.
4. It is a reasonable interpretation of the definition of "Rehabilitation Facility" in the LDC, based on the C-2 (Commercial) zoning and § 1.6.3, Lists and Examples, to include for-profit entities operating such a facility.
5. The requested appeal by the Appellant of the Executive Director's application of the LDC's use provisions did not satisfy the criteria to overturn the Executive Director's decision.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of El Paso County, Colorado, hereby **denies** the appeal by Take Action El Paso County, of the application of the use provisions of the El Paso County Land Development Code by the Executive Director of the Planning and Community Development Department and upholds his conclusion that the proposed use by Appellee meets the definition of a Rehabilitation Facility as defined in the El Paso County Land Development Code.

BE IT FURTHER RESOLVED that Darryl Glenn, duly elected, qualified member and President of the Board of County Commissioners, or Mark Waller, duly elected, qualified member and President Pro Tempore of the Board of County Commissioners, be and is hereby authorized on behalf of the Board to execute any and all documents necessary to carry out the intent of the Board as described herein.

DONE THIS 7th day of February, 2019, *nunc pro tunc* December 20, 2018, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____

Mark Waller, Chair

